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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

August 3, 2000

Magalie Román Salas, Secretary  
Federal Communications Commission  
FCC Portals II  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: MM Docket No. 95-31  
Reexamination of the Comparative Standards for  
Noncommercial Educational Applicants

Dear Ms. Salas:

The American Association of Community Colleges ("AACC")  
herewith submits these comments in support of the "Petition for  
Reconsideration" ("Petition") filed in this proceeding by Santa Monica  
Community College District ("SMCCD").

The FCC set August 3, 2000, as the deadline for filing responses to  
various petitions for reconsideration in MM Docket No. 95-31, including the  
Petition filed by SMCCD. *Petitions for Reconsideration and Clarification of Action  
in Rulemaking Proceedings*, Report No. 2425, Correction (July 24, 2000). AACC  
submits these comments in a timely manner.

AACC supports the SMCCD Petition and urges the FCC to revise its  
rules adopted in MM Docket No. 95-31 as proposed by SMCCD and as  
further clarified herein.

#### About AACC

Since 1920, AACC has been the national voice for two-year associate  
degree granting institutions. AACC serves more than 1,100 member  
community colleges located across the United States, which represents more

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than 90% of all of the community colleges in the country. Over 90% of these community colleges are public institutions, and every state except South Dakota has at least one community college.

AACC works with other higher education associations, the federal government, Congress, and other national associations that represent the public and private sectors to promote the goals of community colleges and higher education. AACC provides a national focus and an agenda that promotes, supports and advances the causes of its members.

AACC has a broad mission statement that includes providing leadership in the following ways:

- policy initiatives that develop a national agenda, identifying educational and community challenges and determining how and where community colleges can effect change;

- advocacy that promotes the national agenda to a broad external constituency in both the federal and public arenas and to the internal community as well, including presidents, trustees, staff and students;

- research that provides data, information and analysis for community college concerns;

- education services that encourage professional growth and renewal for the membership and support national programs and curricular initiatives; and

- coordination that builds and maintains a network among the membership, through related AACC organizations and among numerous community college interest and support groups.

Many AACC members hold FCC licenses for radio and TV broadcast stations. Many AACC members may seek to acquire licenses for radio and TV broadcast stations, and the FCC would apply its new selection processes to those members.

### **The Report and Order**

The FCC adopted a selection procedure, in the Report and Order in this proceeding, under which the local diversity of ownership credit and the state-wide network credit are mutually exclusive. The state-wide network credit is available only to an applicant that does not qualify for and does not claim the local diversity of ownership credit. The FCC developed the state-wide network credit in great part so that educational institution applicants would not find themselves at a competitive disadvantage in the licensing process. However, a community college that does not qualify for the local diversity of ownership credit might not qualify for the state-wide network credit, given the FCC's very specific eligibility criteria for that state-wide network credit.

### **The "Five Campus" Test Will Adversely Affect Community Colleges**

The FCC's definition of higher education institutions that qualify for the state-wide network credit, which is based on the number of campuses the proposed licensee serves, is arbitrary and capricious. This "five campus" test is flawed because it fails to account for institutions that are indisputably state-wide, but have fewer than five campuses, as well as state-wide education plans that are comprised of a network of smaller, independent institutions. This methodology places an unwarranted focus on the size of the proposed

licensee itself, rather than on how the proposed station would further the mission of a state-wide education plan.

With its “five campus” test, the Commission overlooks institutions of higher education that are clearly state-wide, yet have fewer than five campuses. Amongst the nation’s community colleges, some of the state systems resemble the traditional state university model, as they are centralized institutions with multiple campuses throughout the state. Rhode Island, for instance, is served by one community college, the Community College of Rhode Island, which has three campuses. Delaware is served by one central institution, the Delaware Technical and Community College (DTCC), which has four campuses across the state. While each of these campuses has its own administration, they are all considered part of DTCC. Both of these institutions, which fit the state university model upon which the “five campus” test is based, would not qualify for the state-wide network credit simply because of the size of the states they serve. Furthermore, the close proximity of these institutions’ campuses, resulting from the small size of the states they serve, may increase the likelihood that these institutions will have broadcasting needs that do not qualify for the local diversity of ownership credit because the principal community contours of their proposed stations overlap.

Beyond those community colleges that resemble the state university model, however, the Commission’s “five campus” test adversely affects community colleges in nearly every state because it fails to account for the fact that community colleges are part of state-wide systems of higher

education. These systems, which are generally comprised of independently administrated community colleges, differ from the typical multi-campus state university model because an integral part of the community college mission is to respond to the needs of the local communities they serve. Forty-eight states, however, have a state board or other authority which, to some degree, governs or coordinates the offerings and policies of the state's public community colleges to form a coherent, state-wide community college system.

Governance of public community colleges varies in the degree of centralized authority at the state level. Most state systems fit into a few very broad categories. In some states, such as Hawaii and Alaska, the state's community colleges are part of the state university system. In others, the state community college board, either elected or appointed, holds some degree of direct governing authority over that state's institutions. Other states have systems that divide authority between the state board and locally elected or appointed boards. Finally, other states vest all governing authority with local boards, and the state board exists to set policies and coordinate the functions of the state's community colleges.

All of these systems, whether highly centralized or decentralized, are still the types of state-wide educational plans which the Commission sought not to penalize when it adopted a state-wide network credit in the licensing of noncommercial, educational broadcast stations. Community colleges are a vital component of nearly every state's plan, as they offer, among other things, access to higher education to those who cannot afford other state and

private institutions, and lifelong learning to adult learners seeking to update their skills. By focusing solely on the size of the licensee itself, the Commission fails to acknowledge how an applicant might otherwise fit into a state-wide system of higher education. While many community colleges may qualify for the local diversity of ownership credit, there are others that will be caught in the middle: big enough to have broadcasting needs which disqualify the institution for the local diversity credit, yet too small to qualify under the ""five campus"" test.

The Commission's rules must reflect this other way in which institutions of higher education are part of a state-wide education plan. This would not require jettisoning the "five campus" test, as that could be left in place to cover private institutions that are not part of a state plan of higher education. However, the Commission must develop additional criteria to account for smaller institutions of higher education that are part of a state-wide plan. AACC suggests that the Commission award the state-wide network points to institutions of higher education that are governed, overseen, or coordinated by a state level board or other authority. This criterion extends the benefit of the state-wide credit to those institutions that truly are part of a state plan of higher education, but still provides a bright-line test that is simple to administer.

Thank you for consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "David Baime". The signature is written in a cursive, flowing style.

David S. Baime

Director of Government Relations